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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/661,101	09/12/2003	Michael Mastropietro	1842.005US1	6568
70648 7590 12/27/2010 SCHWEGMAN, LUNDBERG & WOESSNER/WMS GAMING P.O. BOX 2938 MINNEAPOLIS, MN 55402				
EXAMINER WONG, JEFFREY KEITH				
ART UNIT 3718		PAPER NUMBER		
NOTIFICATION DATE 12/27/2010		DELIVERY MODE ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

uspto@slwip.com  
request@slwip.com

# Office Action Summary

## Application No.

10/661,101

## Applicant(s)

MASTROPIETRO ET AL.

## Examiner

JEFFREY K. WONG

## Art Unit

3718

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 12 July 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-8, 10-24 and 26-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 9, 25, 34 is/are allowed.
- 6) ☒ Claim(s) 1-8, 10-24 and 26-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-945)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Status of the Application***

1. In view of the Appeal Brief filed on 7/12/2010, PROSECUTION IS HEREBY REOPENED. A new ground of rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

/David L Lewis/

Supervisory Patent Examiner, Art Unit 3714.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 6-7, 10-19, 22-23, 26-28, and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Benbrahim et al., US2005/0059453 (Benbrahim) in view of Nelson et al., US 2004/0053682 (Nelson).

Regarding Claims 1, 10, 17, and 26.

Benbrahim discloses a method for evaluating a game outcome on a gaming machine, the method comprising: receiving during the runtime of a wagering game a game rules script (Abstract and elem 708. Compiled code associated with play of the game may be executed using a processor of the apparatus), the game rules script comprising text specifying a set of displayable game elements for a wagering game (Para 3 and 5. The script is associated in the play of the game. If it is desired to change the configuration of the gaming machine (for example, to modify video displayed on, or audio generated by, the gaming machine.), the program in the high-level programming language must be modified. It is obvious that displaying game elements is associated with playing a game. para 107. A script file may be written and/or stored in a textual format.), the text further defining one or more rules to determine a set of one or more winning outcomes in terms of one or more of the set of displayable game elements (para 5. The method may also comprise determining a value payout associated with an outcome of the game.); parsing the games rules script into a game rules data structure (para 4. A different approach is to include most functionality of a program in machine-executable code, but to put some of the program's functionality in a "script file," where the script file includes instructions written in a high-level scripting language. Typically, the script file itself must be compiled

using a script file compiler. Then, at run-time, a "virtual machine" executes the compiled script file. To debug the script file, a special debugging tool set is used. Thus, this approach requires two different compilers (one for the main portion of the program and one for the script file) and, similarly, two different sets of debugging tools. In computers, parsing is viewed as analyzing a string of characters in order to associate groups of characters into more easily processed components. When a script is to be compiled, it must be parsed first before it can be compiled. In this case, the compiling of the script is viewed as the parsing of the games rules script since the rules script needs to be parsed first before it is compiled.); generating a game outcome (para 71. At block 394, the routine may determine whether the poker hand represented by the playing card images 352 currently displayed is a winner.);

Benbrahim failed to disclose determining if the game outcome matches at least one winning outcome in the set of winning outcomes in accordance with the game rules data structure.

However, Nelson discloses of a gaming system that offers a wagering event (para 15) in which the payout data may be efficiently modified, updated or distributed (Abstract) by means of implementing script files (para 14) and mapping an outcome to a payout (para 19). In this case, in order for an outcome to be mapped to a payout, the outcome must first be matched to a winning outcome.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the game outcome matching of Nelson's

teachings with Benbrahim's invention in order to provide a more efficiently modifiable, updatable, and distributable gaming system as taught by Nelson.

Regarding Claims 2, 27.

Benbrahim discloses wherein the set of winning outcomes comprise winning outcomes for a card game (para 71. Poker is a card game.).

Regarding Claims 3, 28.

Benbrahim discloses wherein the card game comprises a poker card game (para 71. Poker is addressed).

Regarding Claims 6, 31.

Nelson discloses wherein each winning outcome in the set of winning outcomes comprises a set of match rules (para 4. The payout data is mapped to a set of outcomes.), wherein the game outcome includes one or more displayable game elements from the set of displayable game elements (para 33. Reel symbols are displayable game elements.), and wherein determining if the game outcome matches at least one winning outcome includes determining if each match rule in the set of match rules for a winning outcome matches at least one game displayable game element (para 33. In this case, in order for an outcome to be mapped to a payout, the outcome must first be matched to a winning outcome.)

Regarding Claims 7, 22, and 32.

Benbrahim discloses wherein the game element comprises a playing card (para 71. Poker is a card game).

Regarding Claim 11.

Benbrahim discloses wherein the set of rules include a rank matching rule (para 71. Cards in a poker hands are based on rank).

Regarding Claim 12.

Benbrahim discloses wherein the rank matching rule defines an exact match to a rank (para 71. Cards in a poker hands are based on an exact match to a rank).

Regarding Claim 13.

Benbrahim discloses wherein the rank matching rule defines a numerical comparison to a rank (para 71. Cards in a poker hands are based on a numerical comparison to a rank).

Regarding Claim 14.

Benbrahim discloses wherein the set of rules includes a suit matching rule (para 71. Cards in a poker hand are associated with a suit).

Regarding Claim 15.

Benbrahim discloses wherein the set of rules includes a wild card definition rule (para 71).

Regarding Claim 16.

Benbrahim discloses wherein each winning outcome in the set of winning outcomes includes a payout amount (para 71).

Regarding Claim 18.

Benbrahim discloses, wherein the set of winning outcomes comprise winning outcomes for a card game (para 71. Poker has winning outcomes).

Regarding Claim 19.

Benbrahim discloses wherein the card game comprises a poker card game (para 71).

Regarding Claim 22.

Benbrahim discloses wherein each winning outcome in the set of winning outcomes comprises a set of match rules, wherein the game outcome includes a plurality of displayable game elements, and wherein the gaming application is further operable to determine if each match rule in the set of match rules for a winning outcome matches at least one displayable game element (para 71. Poker can have hands which result in



winning outcomes.).

Regarding Claim 23.

The computerized gaming system of claim 22, wherein the displayable game element comprises a playing card (para 71. Poker comprises a playing card).

3. Claims 4, 5, 8, 20, 21, 24, 29, 30, and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Benbrahim et al., US2005/0059453 and Nelson et al., US 2004/0053682 (Nelson) in view of Perrie et al., US 2002/0036380(Perrie).

Regarding Claims 4, 5, 20, 21, 29 and 30.

Benbrahim and Nelson disclose the claimed invention as discussed in Claim 1 but fails to disclose wherein the set of winning outcomes comprise winning outcomes for a dice game. However, Perrie teaches of how the popular game trademarked YAHTZEE by Hasbro, Inc. is basically a draw poker variation in which the players are allowed, twice, to "replace" existing rolls of five dice (para 7). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made that Perrie's game of Yahtzee is an obvious variation of poker games found in casinos that can be implemented with selectable scripts.

Regarding Claims 8, 24, and 33

Benbrahim and Nelson discloses the claimed invention as discussed in Claim 6 but fails to disclose wherein the game element comprises a playing card.

However, Perrie teaches of how the popular game trademarked YAHTZEE by Hasbro, Inc. is basically a draw poker variation in which the players are allowed, twice, to "replace" existing rolls of five dice (para 7). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made that Perrie's game of Yahtzee is an obvious variation of poker games found in casinos that can be implemented with selectable scripts.

#### ***Response to Arguments***

4. Applicant's arguments with respect to Claims 9, 25, 34 have been fully considered and are persuasive. The rejection of Claims 9, 25, and 34 has been withdrawn.
5. Applicant's arguments with respect to claims 1, 10, 17, and 26 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Allowable Subject Matter***

The following is an examiner's statement of reasons for allowance: The prior art does not teach or suggest the limitation pertaining to a comparing a displayable game element with a match rule in the set of match rules, if the displayable game element matches a match rule, then: removing the displayable game element from the plurality of displayable game elements to form a reduced set of displayable gaming elements, removing the match rule from the set of match rules to form a reduced set of match rules, executing tasks a and b on the reduced set of displayable gaming elements

and the reduced set of match rules; and determining that each match rule has been matched when no rules remain in the reduced set of match rules.

### ***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey K. Wong whose telephone number is (571)270-3003. The examiner can normally be reached on M-Th 9:30am-8:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on (571) 272-4690. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JKW

/David L Lewis/  
Supervisory Patent Examiner, Art Unit 3714